

Excerpts from San José Municipal Code -

(Note: This document has been edited for brevity and does not contain all of the applicable Municipal Codes Sections related to Street Permits and Encroachment Permits

Chapter 13.36 PUBLIC WORKS STREET PERMITS

13.36.010 Authority.

The director of public works may approve plans for construction or reconstruction, not including maintenance, within existing and proposed public rights-of-way, and when the cost to the city is not more than five thousand dollars, may approve agreements and issue permits for said work.

13.36.020 Revocable permits.

The director of public works may issue revocable permits for private facilities, including but not limited to special planters, underground conduit crossings, and special driveways, within the public right- way. This permit is revocable upon one hundred eighty days' notice.

13.36.030 Temporary closures.

The director may issue permits for temporary street closures and detours necessary in connection with street improvements, adjacent private construction and construction related safety.

13.36.040 Special costs.

In connection with permits issued under this chapter by the director of public works, a charge may be included to recover city costs for special services, including but not limited to pavement marking, overtime hours, parking meter removal/replacement, TV sewer inspection, signal installations, and traffic safety control.

13.36.050 Completion deposit.

In connection with permits issued under this chapter by the director of public works, a completion deposit of not less than five percent of the estimated cost of the construction shall be provided. Said completion deposit may be increased if the director finds such increase necessary to assure public safety. The director may require a one hundred percent completion deposit in lieu of bonds where the estimated cost of the project is less than five thousand dollars. In the event of noncompliance with permit conditions, the director may act on behalf of the permittee to cause the work to be done by others and authorize payment directly from the completion deposit, and may also recover city costs in taking such action. Upon acceptance, the unexpended portion of the completion deposit shall be returned to the party making payment.

13.36.060 Bonding.

In connection with permits issued under this chapter by the director of public works, except as noted under "Completion deposit," bonds in the amount of one hundred percent of the estimated cost are to be provided and approved by the director assuring performance and for labor and materials.

13.36.070 Fees.

In connection with permits issued under this chapter by the director of public works, a service cost recovery fee will be collected.

Chapter 15.50 EXCAVATION/ENCROACHMENT PERMITS

Part 1 - GENERAL PROVISIONS

15.50.220 Major excavation/encroachment permit.

“Major excavation/encroachment permit” means a permit issued in accordance with this chapter for installation or construction of structures in the public right-of-way or excavation of the public right-of-way which does not qualify for a minor excavation/encroachment permit.

15.50.250 Special project.

“Special project” means a project requiring a major excavation/encroachment permit and requiring city inspections for thirty or more working days to complete.

Part 3 - PROCESS

15.50.300 Application.

A. All applications for a major excavation/encroachment permit pursuant to this chapter shall be filed with the director.

15.50.310 Approval.

A. The director may issue a permit only upon finding:

1. All necessary information has been provided to enable an adequate evaluation of the application; and
2. The issuance of the permit is in the public interest and welfare, considering proper traffic control, safety and welfare of the public, and an absence of conflict with other existing or planned facilities; and

Part 5 - CONDITIONS

15.50.500 Conditions.

All permits shall be subject to the following conditions:

- A. All conditions necessary to insure proper traffic control, public safety and welfare and the lack of conflict with other existing and planned projects, structures or facilities.
- B. An acknowledgment that the permittee agrees to be responsible for any damage caused by its activities to any existing public or private structures or facilities.
- C. The permittee shall indemnify and hold harmless the city of San José and any officers and employees thereof against and from all claims, loss, liability, damages, judgments, decrees, costs and expenditures which the city or such officer or employee may suffer, or which may be recovered from or obtainable against the city or such officer or employee, proximately caused by and growing out of or resulting from the exercise of the permit by the permittee.

D. All work to be done under a permit shall be completed within six months from the date of issuance.

E. Permittee is responsible for trench and surface conditions during the time that their facilities remain within the trench.

F. Any other condition deemed appropriate by the director. If the work is not completed, the permit shall be renewed upon payment of the applicable fee as set forth in the schedule of fees adopted by the city council. If the delay is caused by the city, the permit shall be renewed without charge.

Part 7 - EXCEPTION

15.50.700 Exceptions.

B. The director may, but shall not under any circumstances be required to, grant exceptions from the provisions of this chapter.

D. The director shall not grant an exception unless it is found that:

1. Special circumstances applicable to the subject right-of-way deprive the applicant of the ability to install necessary equipment. Such special circumstances shall include without limitation the size, shape, location or surroundings of the subject right-of-way, and the orientation of the structures thereon.

2. The exception, subject to such conditions as may be imposed thereon by the director:

a. Will not impair the general welfare of the neighborhood;

b. Will not impair the integrity and character of the zoning district in which the subject property is located;

c. Will not create a nuisance or safety hazard; and

d. Will not undermine the aesthetic environment of the neighborhood.